S.B. Civil Sales Tax Revision No.88/2007

Commercial Taxes Officer, Anti Evasion, Jhunjhunu
vs.
M/s. Radhakishan Malchand.

Date : 28.3.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sangeet Lodha, for the petitioner.

- - - - -

Heard.

According to the petitioner, the scope under Section 37 of the Rajasthan Sales Tax Act, 1994 (for short 'the RST Act') is only for rectification if there is some mistake in the order. It cannot be a power which is available under the provisions empowering the authority to review its own order. Under this provision, the authority can only make correction or rectification in the order which has been passed and for that purpose, there are certain limitations. The scope of Section 37 of the RST Act cannot be enlarged to the extent which has been extended by the Tax Board, Ajmer.

According to learned counsel for the petitioner, the Tax Board on 23.5.2005 passed the order in accordance with law and if the assessee could not put

in appearance on relevant date of hearing before the Tax Board, the Tax Board itself had no power to review its order by invoking the powers under Section 37 CPC. The only remedy available to the assessee was to challenge the order of Tax Board dated 23.5.2005 by filing revision petition before this Court.

I considered the submissions of learned counsel for the petitioner and perused the reasons given in the impugned order dated 14.8.2006.

It appears from the order dated 14.8.2006 that on date of hearing, nobody appeared on behalf of the assessee. The assessee submitted an application narrating the reasons for absence of its counsel. The Tax Board felt convinced by the reasons given by the assessee for its absence on the date of hearing and by following the judgments of the Hon'ble Apex Court and this Court observed that because of the lapse on the part of the Advocate, the party cannot be made to suffer.

In such facts and circumstances, when a discretionary order has been passed by the Tax Board and that too only of giving an opportunity of hearing to the assessee in the matter which was decided ex-parte and the Taxs Board after convincing itself by the

reasons for absence of the representative of the assessee granted one opportunity to assessee to put his contention before the Tax Board, I do not find any reason to interfere in revisional jurisdiction in such a matter because of the reason that in sum and substance, the principle of natural justice is sought to be followed by the Tax Board.

In view of the above, I do not find any merit in this revision petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya